

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **LIABILITY - NEW YORK**

### **Rodriguez v. City of New York**

**Court of Appeals of New York - April 3, 2018 - N.E.3d - 2018 WL 1595658 - 2018 N.Y. Slip Op. 02287**

Sanitation worker brought negligence action against city seeking to recover for injuries sustained when sanitation truck driven by coworker backed into car that then struck him.

The Supreme Court, New York County, denied city's motion to strike claim for lost earnings or, in alternative, to compel worker to provide copies of his tax returns or authorizations for such returns, and denied worker's motion for partial summary judgment on issue of liability and city's cross-motion for summary judgment. Parties appealed. The Supreme Court, Appellate Division, affirmed. Worker appealed with respect to denial of his summary judgment motion.

The Court of Appeals held that worker was not required to demonstrate absence of his own comparative fault to obtain partial summary judgment on issue of liability.

Sanitation worker, who sustained injuries when sanitation truck driven by coworker backed into car that then struck him, was not required to demonstrate absence of his own comparative fault to obtain partial summary judgment on issue of liability in his negligence action against city, since any contributory negligence did not bar recovery of damages for personal injury, rather, it merely diminished any damages award, and requirement in summary judgment rule, that a movant show that there was no defense to cause of action, did not apply to issue of comparative fault, given that it was not complete defense to any element of worker's negligence cause of action.